THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No23034 of 2005

Date:26.10.2005

Satti Bapi Reddy.

--------PETITIONER

The Chairman and Managing Director and another.

---------RESPONDENTS

ORDER:

The petitioner is employed as a Divisional Engineer (Operations) in the Andhra Pradesh Eastern Power Distribution Company Limited. When he was functioning in that post at Ramachandrapuram, he was placed under suspension through proceedings, dated 02.11.2003, on the ground that the Anti Corruption Bureau (for short 'the ACB') of Eluru Range registered Crime No.11/RCA-EWG/03 under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 (for short 'the Act'). The ACB took the view that the assets to the tune of Rs.23,80,959/- said to have been held by the petitioner are disproportionate to his income.

The petitioner submits that there are several Circulars and Orders issued by the Government to the effect that in cases initiated on the allegations of disproportionate assets, suspension cannot be resorted to as a matter of course, and even where an employee is suspended in such cases, the matter must be reviewed periodically. It is also stated that two years period is treated as almost an outer limit for continuance of suspension in such cases and he seeks directions to the respondents for reinstatement.

Sri P.V.Krishnaiah, the learned counsel for the petitioner submits that there was neither any basis to suspend the petitioner nor any justification to continue the same, for this length of time. He contends that as of now, the ACB has not even filed charge sheet and that it would take several years for conclusion of the case registered against the petitioner.

Sri Samineni Kishore, the learned Standing Counsel for the respondents, on the other hand, submits that the charges against the petitioner are grave and that the respondents are helpless in the matter, till the concerned Court disposes of the case, registered against the petitioner.

It is the prerogative of an employer, to place an employee under suspension pending enquiry into charges of misconduct or corruption. The ACB registered a case against the petitioner, on the ground that he holds assets, disproportionate to his known income. The case is at a preliminary stage, even after two years from the date of institution.

The gravity of the situation in the cases instituted under the provisions of the Act is not uniform. While the cases where an employee is found red-handed, accepting any illegal gratification, discloses a gross misconduct and corruption on the part of the employee, in the cases instituted on the allegations of holding disproportionate assets, an element of subjectivity exists. Much would depend on the type of evaluation of the assets and the ultimate ownership of the said property. It is for this reason that the Government issued Circulars from time to time, sounding a note of caution, in respect of the cases registered, on the allegations of holding disproportionate assets.

In G.O.Ms.No.86, dated 08.03.1994, apart from indicating other measures, the Government directed that a period of two years shall be treated as an outer limit, for reviewing the case of suspension and for reinstatement, in cases where the basis for the action is the alleged disproportionate assets. There is a sound logic in such a measure. If the employee is continued under suspension for years together, till the disposal of the case by the ACB Court and if it

ultimately emerges that the charges are not proved, the Department concerned would be put to disadvantage of two kinds viz., its inability to extract work from the employee and its obligation to pay the entire salary at a later point of time. If the charge is not so direct and grave, reinstatement of an employee and posting him to a different place may, in a way, protect the interests of the organization as well as the employee. However, these are the aspects, which need to be taken into account by the respondents. The case of the petitioner cannot be kept indefinitely, without review.

For the foregoing reasons, the writ petition is disposed of, directing the respondents to review the case of the petitioner, in the light of the relevant Government Orders, and to pass appropriate orders, within a period of one month from the date of receipt of a copy of this order. There shall be no order as to costs.

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26.10.2005

Note: Issue C.C. in three days.

(B/o)

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